

**OPINION
63-224**

July 10, 1963 (OPINION)

SCHOOL DISTRICTS

RE: Transportation - Computing Payments

This is in reply to your letter of July 8, 1963, regarding Senate Bill No. 48 as enacted by the 1963 Legislative Assembly. You state the following facts:

This law provides that a school district shall receive seven cents per mile for a bus up to a passenger capacity of nineteen, and for twenty or more twelve cents per mile. It provide also that the manufacturer's rated pupil capacity shall govern.

My question is, if a school district uses a twenty-four-passenger bus, for example, and so rated by the manufacturer, and carries only fourteen or fifteen pupils, for example, shall it receive twelve cents per mile according to the manufacturers, or in that case should a school district receive from the state seven cents per mile because it is hauling nineteen or fewer pupils?"

Section 15-34-24 of the North Dakota Century Code, as amended by Section 1 of Chapter 155 of the 1963 Session Laws (Senate Bill 48), provides in part:

There shall be paid from the county equalization fund to each school district providing school bus transportation in contract school buses or in district owned and operated school buses a sum equal to seven cents per mile for school buses having a capacity of up to nineteen pupils and twelve cents per mile for school buses having a capacity of twenty or more pupils.

Section 15-34-25 of the North Dakota Century Code, as amended by Section 2 of Chapter 155 of the 1963 Session Laws provides in part:

On or before the fifteenth day of July, 1963, and on or before July fifteenth of each year thereafter, the clerk of each school district in this state providing school bus transportation shall certify to the county superintendent of schools the number of school buses operated on a contract basis or owned and operated by the district, the manufacturers' rated pupil capacity of each such bus, the daily mileage each such bus traveled on a school bus route during the school year in transporting pupils to and from school, the amount of transportation payments claimed, and such other information as the superintendent of public instruction may require. * * *

The above-cited provisions do not make the actual number of students transported in a bus a factor in computing the transportation payments. It is the rated capacity of the bus which, together with the number of miles traveled in transporting pupils to and from

school, are the factors necessary to the computation of the transportation payments.

It is therefore our opinion that the number of students actually transported in the bus is not be considered in computing the transportation payments. It is the rated capacity of the bus plus the number of miles traveled in transporting students to and from school which must be considered. Thus in the example presented in your letter the district would receive twelve cents per mile for the bus in question although such bus actually transports only fourteen or fifteen pupils. Since the bus has a rated capacity of twenty-four pupils it receives twelve cents per mile regardless of the number of students actually transported.

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